



NATION

Wage theft: An underreported crime

Mark Pattison | Catholic News Service (<https://cnstopstories.com/>)

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A construction worker uses a grinder on a metal beam at a construction site in Los Angeles Aug. 10, 2017. The Catholic Labor Network, through its Mid-Atlantic Construction Wage Theft Project, is looking into the issue of "wage theft," the denial of pay or benefits rightfully owed to workers. The project has sent a man to construction sites in Maryland and the District of Columbia to talk to workers to learn who hired them and how much they're getting paid. (CNS photo/Mike Blake, Reuters)

A rising tide lifts all boats, according to the popular economic adage.

But what if the reverse also is true? What happens when wages are depressed, and illegally so?

The Catholic Labor Network, based in Washington, is testing that theory right now through its Mid-Atlantic Construction Wage Theft Project. It has sent a man to construction sites in Maryland and the District of Columbia to talk to workers to learn who hired them and how much they're getting paid.

Ernesto Galeas, who has gone to the job sites, said a growing number of builders are going through labor brokers to obtain workers. The brokers get their fee – and, according to Galeas, the workers get about \$10 an hour with no overtime, no Social Security, no worker's compensation and no health insurance.

Galeas recalled during a Catholic Labor Network meeting in January when he worked at Dulles International Airport outside Washington: "I worked next to workers who didn't have a union. They were treated so badly."

He added that he asked a worker at one construction site, "What happens if you get hurt on the job?" The worker replied, "I don't know."

"Those labor brokers, they don't care about you," Galeas said.

In a February phone interview with Catholic News Service, Galeas said: "In every job that I visit, most of them have labor brokers in drywall, carpentry, siding, plumbing, electricians. I would say that of 10 jobs, eight of them are under labor brokers."

While labor brokers were more common in new-home construction, it has spread to commercial development, he added.

As a result, union members in the construction trades resent a largely immigrant workforce undercutting their pay, Galeas said, but they don't see the labor broker as the source of their woe.

In Central America, home to many of the immigrants in construction, they were making \$250-\$300 a month, so a \$500 weekly pay rate seems good to them, according to Galeas. But the workday here can begin as early as 5 a.m. for drywall hangers, and can continue past sundown. And, because many immigrants are in this country illegally, they don't have any leverage in their work situation, not just in low pay but the dangers of working in the rain.

"That's why the labor union has to be more proactive in these things. They will try to put more organizers in the field, collecting this type of information that we know is happening," Galeas said.

How do labor brokers get away with it? "That's a legal question you need to ask to the Labor Department," he replied.

The attorney general's office in the District of Columbia levied fines this winter totaling roughly \$3.25 million against three firms found to have violated the city's wage-theft law. Some of that money will go to workers as back pay. Two of the three companies specialize in drywall hanging and electrical work.

D.C.'s Workplace Fraud Act, which applies to the construction industry, requires companies to classify most workers as employees. Those who violate the law can face significant fines. Maryland has a similar bill, hence the Catholic Labor Network's focus there with its wage-theft initiative.

"They passed laws that say if you're cheated by a contractor out of your overtime, you can file a private lawsuit against the general contractor," said Catholic Labor Network executive director Clayton Sinyai. "So we saw this as a potential lever for action that didn't exist elsewhere."

On the national front, the Forced Arbitration Injustice Repeal Act passed with a bipartisan majority in the House; it is pending in the Senate. "There is support on both sides of the aisle, generally, around this issue," said Hugh Baran, a staff attorney at the National Employment Law Project, or NELP. "I can't predict what (Senate Majority Leader) Mitch McConnell (R-Kentucky) will do."

Baran wrote a report for NELP, published Feb. 13, estimating the threat of forced arbitration allowed employers to steal \$12.6 billion last year alone from workers who make less than \$13 an hour. Under this scenario, employers make new employees sign contracts that forbid them to go to court to resolve wage disputes. Such contracts often stipulate the arbitrator is selected by the employer, the employee must appear in person at the arbitration hearing even if it's in a different state, and that the loser pays the winner's attorney fees.

Nancy Burgess, who has spent 20 years in customer service jobs, believes she got the shaft from her employer – an independent contractor.

"For the most part, I was only paid when I was on the phone speaking but wasn't paid for all the time I spent off the phone taking notes, sending emails to customers, or otherwise completing the assignment, I wasn't paid any wages at all for much of my work," Burgess said in testimony to the Colorado Legislature.

"I worked over 50 hours a week, and I wasn't paid a dime of overtime," she said. "For me it was bad, and my wages frequently fell below \$10 per hour, below Colorado minimum wage."

She described a co-worker in Ohio "who worked about the same amount of time as me, and one of her paychecks was for 31 cents for two weeks of work!" Colorado is considering a bill that would require arbitration disputes to be held in the state. Burgess said was told she would have to go to Texas if she wanted to pursue a wage-theft claim.

California passed the Private Attorneys General Act, which allows workers to stand in the shoes of their state's labor department and seek civil penalties for wage theft; they also generate millions in new revenue for state enforcement agencies, expanding their capacity to root out wage theft. Such legislation also has been proposed in New York, Oregon, Maine, Massachusetts, Vermont and Washington.

The ability of government to root out wage theft is weak at best. In 1948, the U.S. Department of Labor employed 1,000 wage-and-hour investigators with a national workforce of 23 million. In 2015, with a workforce of 149 million, there are just 894 investigators. State resources also are scant.

Wage theft perhaps affects low-wage workers most adversely, because they rarely have the means to contest such pilferage.

A 2017 study by the Economic Policy Institute found wage theft "causes many families to fall below the poverty line, and it increases workers' reliance on public assistance, costing taxpayers money. Lost wages can hurt state and local economies, and it hurts other workers in affected industries by putting downward pressure on wages."

In examining the 10 most populous states, which hold a bit more than half the U.S. population, wage theft comes to more than \$8 billion a year. "If the findings for these states are representative for the rest of the country, they suggest that the total wages stolen from workers due to minimum wage violations exceeds \$15 billion each year," the report said.

Just how much is that? David Cooper, a senior analyst at the Economic Policy Institute and co-author of the report, told CNS that "when you look at the amount of wage theft that takes place, it's significantly more than the value of property theft." The report quotes FBI statistics from 2015 that show the combined value of money and property stolen in robberies, burglaries, larceny and motor vehicle theft in the United States was \$12.7 billion.

"The magnitude," Cooper said, "is a lot larger than people think."

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